

Message Text

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61
ORIGIN EB-11

INFO OCT-01 EA-11 ISO-00 SS-20 L-03 INR-11 PRS-01 SSO-00

INRE-00 RSC-01 /059 R

DRAFTED BY EB/TT:JSMEADOWS/L/EB:PRTRIMBLE:VLV

APPROVED BY D:RSINGERSOLL

EA/PHL - MR. HULEN

EB/AN - MR.COBB

S/S - SRGAMMON

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FM SECSTATE WASHDC

TO AMEMBASSY MANILA NIACT IMMEDIATE

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E.O. 11652: N/A

TAGS: EAIR, RP

SUBJECT: CIVAIR - BILATERAL NEGOTIATIONS

REF: MANILA 9412

FOR AMBASSADOR FROM DEPUTY SECRETARY INGERSOLL

1. SEPTEL AUTHORIZES EMBASSY TO SIGN NOTE EXCHANGE ON
BASIS ORAL ASSURANCES PROVIDED PARA 6 REFTEL. THOSE ORAL
ASSURANCES ARE POLITICALLY REASSURING, BUT NOT WITHOUT
CERTAIN LEGAL COMPLICATIONS OF WHICH EMBASSY SHOULD BE
AWARE. WHILE WE WOULD NOT EXPECT CONFLICT TO ARISE THAT
WOULD NECESSITATE LEGAL ACTION, WE ARE NONETHELESS OBLIGED
TO TAKE SUCH CONTINGENCY INTO ACCOUNT. THEREFORE MUST
ENDEAVOR TO PRESERVE OPTION OF PART 213 ACTION IF FLYING
TIGER CURRENT CARGO OPERATIONS SHOULD BE CURTAILED BY GOP
BEFORE FURTHER AGREEMENT REACHED. FOR PART 213 ACTION
THERE MUST BE BREACH OF AGREEMENT WHICH DEPENDS ON BROAD
CONSTRUCTION OF "SYMPATHETIC CONSIDERATION" LANGUAGE FOR
WHICH ORAL ASSURANCES ESSENTIAL. WE INTEND, ON THE BASIS

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OF THESE ASSURANCES, TO INFORM THE CAB THAT THE DEPT WOULD
NOT OBJECTON LEGAL GROUNDS SHOULD THE CAB LATER FIND IT
NECESSARY TO TAKE PART 213 ACTION, ALTHOUGH WE ARE NOT
THEREBY EXPRESSING ANY VIEW ON WHETHER SUCH ACTION, IF

CHALLENGED, WOULD BE SUSTAINED AS A MATTER OF LAW. WE
ASSUME THAT ALL CONCERNED PARTIES UNDERSTAND THAT, IN THE
EVENT OF LEGAL CHALLENGE, IT MAY BE NECESSARY TO MAKE PUBLIC
THE ORAL ASSURANCES REFERRED TO ABOVE AS PART OF THE RECORD
RELATING TO ANY CAB ACTION.

2. RE QUESTION OF INTERVENTION WITH CAB CONCERNING FINE OF
PAL, THIS MATTER HAS ALREADY BEEN DISCUSSED WITH THE BOARD
AND WILL BE FOLLOWED UP AS NECESSARY.

KISSINGER

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Message Attributes

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Draft Date: 07 AUG 1974
Decapton Date: 28 MAY 2004
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